

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITA No. 299 of 2005

Date of Decision: 1.11.2007

The Commissioner of Income Tax, Panchkula.

...Appellant

Versus

The Senior Divisional Accounts Officer, Northern Railway, Ambala.

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. S.K. Garg Narwana, Advocate,
for the appellant-revenue.

M.M. KUMAR JUDGE, J.

This is revenue's appeal filed under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), challenging order dated 10.12.2004, passed by the Income Tax Appellate Tribunal, 'SMC' Chandigarh (for brevity, 'the Tribunal'), in I.T.A. No. 154/Chandi/2001, in respect of assessment year 1997-98. The appellant-revenue has claimed that following substantial question of law would arise for our determination:

Whether in the facts and circumstances of the case the Tribunal was right in upholding the order of CIT (A) deleting the penalty of Rs. 4,14,440/- levied under Section 271C of the Income-tax Act, 1961, when

admittedly the responsible person had failed to deduct full TDS on the total amount paid to the contractor?

The respondent herein is the Senior Divisional Accounts Officer, Northern Railway, Ambala. As the dispute was between Union of India and undertaking of the Union of India, we had granted one last opportunity to the counsel for the appellant to seek instructions as to whether any proposal for approval of this case has been sent to the Committee of Disputes (COD) in the light of the observations made by Hon'ble the Supreme Court in the cases of Oil & Natural Gas Commission v. Collector of Central Excise (1992) 104 CTR (SC) 31 and Oil and Natural Gas Commission v. Collector of Central Excise, (1994) 116 CTR (SC) 643. In compliance of the order, learned counsel for the appellant has placed on record communications dated 7.7.2006, 30.11.2006, 2.2.2007, 30.4.2007, 22.5.2007, 11.9.2007 and 23.10.2007, sent by the Income Tax Officer (TDS), Ambala to the Commissioner of Income Tax, Panchkula, requesting him to send the information as to whether permission of the High Power Committee (committee on disputes) has been received or not. From the perusal of aforementioned communications it is not clear whether the proposal has been approved or not.

In view of above, we dispose of the appeal by giving liberty to the appellant to file appropriate application for revival of the appeal if such a necessity arises on the basis of the decision taken by the Committee of Disputes. The appeal has been disposed of by adopting the same course as was adopted by Madras High Court in

the case of Commissioner of Income Tax v. Neyveli Lignite Corporation Ltd., (2007) 293 ITR 362.

(M.M. KUMAR)
JUDGE

November 1, 2007
Pkapoor

(AJAY KUMAR MITTAL)
JUDGE